

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



SHAREEF MUHAMMAD, #31725-016,

Petitioner,

v.

ACTION NO. 2:19cv537

J. ANDREWS, Warden
FCC PETERSBURG,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2241. The petition arises out of a disciplinary proceeding that resulted in a loss of 41 days of good conduct time and other consequences. Petitioner alleges that the Federal Bureau of Prisons violated his right to due process by failing to provide him with a copy of the Discipline Hearing Officer report in a timely manner after the proceedings against him. He seeks expungement of the incident report and restoration of the lost good conduct time.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. An Amended Report of the Magistrate Judge was filed on April 24, 2020¹ recommending dismissal of the petition with prejudice. *See* ECF No. 11. By copy of the Report, each party was advised of his right to file written objections to the

¹ The Amended Report solely corrected a clerical error on page one, paragraph one of the original Report and Recommendation filed April 23, 2020 (ECF No. 10), correcting the spelling of Petitioner's name.

findings and recommendations made by the Magistrate Judge. The Court has received no objections to the Magistrate Judge's Report and Recommendation and the time for filing objections has now expired.

Accordingly, the Court accepts the findings and recommendations set forth in the report (ECF No. 11) of the United States Magistrate Judge filed April 24, 2020. It is ORDERED that Respondent's Motion to Dismiss (ECF No. 6) is GRANTED, and that the Petition is DENIED and DISMISSED with prejudice due to Petitioner's failure to establish a due process violation.

Finding that the basis for dismissal of Petitioner's § 2241 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); *see* Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Petitioner is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). If Petitioner intends to seek a certificate of appealability from the Fourth Circuit, he must do so **within sixty (60) days** from the date of this Order. Petitioner may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Amended Report and Recommendations (ECF No. 11) is ADOPTED. The original Report and Recommendations (ECF No. 10) is MOOT. Respondent's Motion to Dismiss (ECF No. 6) is GRANTED. The Clerk shall mail a copy of this Final Order to Petitioner Shareef Muhammad and provide an electronic copy of the Final Order to counsel of record for Respondent.



Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia
May 27, 2020